Reply Brief Dated: <u>August 27, 2007</u>

Applicant: EBERLE *et al.*
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Customer No.: <u>00909</u>

AUG. 2 7 2007

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE PATENT APPLICATION OF:	Hannes EBERLE *et al.*
SERIAL NO.:	09/661,375
ATTORNEY DOCKET NO:	067220-0312764 (*23453-020*)
FILING DATE:	September 13, 2000
ART UNIT :	2626
EXAMINER	Martin Lerner
FOR:	SYSTEM AND METHOD FOR THE CREATION AND AUTOMATIC DEPLOYMENT OF PERSONALIZED, DYNAMIC AND INTERACTIVE VOICE SERVICES, WITH SYSTEM AND METHOD THAT ENABLE ON-THE-FLY CONTENT AND SPEECH GENERATION

<u>MAIL STOP APPEAL BRIEF – PATENTS</u>
Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

<u>REPLY BRIEF</u>

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, Virginia 22102
Main: 703-770-7900
Fax: 703-770-7901

Date: <u>**August 27, 2007**</u>

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I.   INTRODUCTION.

This Reply Brief is being filed within two months of the Examiner's Answer (hereinafter "Answer") mailed June 25, 2007. This Brief responds to the new points raised by the Examiner in response to Appellants' Brief on Appeal Under 37 C.F.R. § 41.37 (hereinafter "Appeal Brief"), filed April 10, 2007.

II.   STATUS OF CLAIMS.

Pending claims 27-36 and 38-45, which are presently on appeal, stand rejected as follows:

(1)   Claims 27-28, 34-35, and 43-44 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,246,672 to Lumelsky ("Lumelsky") in view of U.S. Patent No. 6,539,359 to Ladd *et al.* ("Ladd").

(2)   Claims 29-33, 36, 38-42, and 45 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Lumelsky and Ladd, further in view of U.S. Patent No. 6,430,545 to Honarvar *et al.* ("Honarvar").

III.   RESPONSE TO EXAMINER'S ARGUMENTS – INDEPENDENT CLAIMS 27 AND 28.

A.   *The Combination of Lumelsky and Ladd Fails to Disclose, Teach, or Suggest "generating a unique active voice page for each subscriber of the at least one voice service, wherein a unique active voice page comprises personalized content created by applying subscriber-specific personalization information for a subscriber to the generated content."*

In the Answer, the Examiner continues to allege that Lumelsky "clearly" discloses the following features, as recited in both independent claims 27 and 28:

> . . . generating a unique active voice page for each subscriber of the at least one voice service, wherein a unique active voice page comprises personalized content created by applying subscriber-specific personalization information for a subscriber to the generated content . . .

In particular, the Examiner alleges that Appellants' arguments in the Appeal Brief are "well-written and well-organized, but . . . unconvincing to anyone having ordinary skill in the art who has read the reference." Answer at 10. Thereafter, the Examiner recites various passages from Lumelsky, without elaborating as to how the passages allegedly apply to the claim features at issue. The Examiner then arrives at the conclusory supposition that "no additional time need be expended . . . to address arguments set forth by Appellants." Answer at 11.

In an apparent effort to avoid the expenditure of "additional time," the Examiner has failed once again to demonstrate how the cited portions of Lumelsky disclose the claimed feature of "generating a unique active voice page for each subscriber of the at least one voice service," as well as the claimed feature of the unique active voice page comprising "personalized content created by applying subscriber-specific personalization information for a subscriber to the generated content."

For example, in the Appeal Brief, Appellants clarified that Lumelsky does *not* provide content to users via unique active voice pages, but rather, via Composite Encoded Speech (CES) files. *See* Appeal Brief at 10-11. To this end, Appellants discussed at length the distinctions between an "active voice page" and a CES-based file. For instance, an "active voice page," as recited in independent claims 27-28, includes a customized call structure for controlling interaction between a user and a server. *E.g.*, Specification at 5, lines 10-19. By contrast, the Examiner relies upon CES-based files, as disclosed in Lumelsky, as allegedly teaching the claimed "active voice page."

However, Lumelsky only indicates that CES-based files contain "phonetically encoded data," which "is then stored . . . as a data file with predetermined structure, e.g., as an HTML document." Lumelsky at col. 10, lines 43-56. Lumelsky does not, however, disclose, teach, or suggest that the CES-based files contain information that could enable interaction between a subscriber and a system during an *interactive voice broadcast*, as recited in the claimed invention. An "active voice page," which includes a call structure for controlling interaction between a user and a server is *distinct* from an HTML document that only includes encoded speech.

Further, the portions of Lumelsky that the Examiner relies upon to dispute Appellants' arguments fail to support the Examiner's assertion that *"Lumelsky* clearly discloses these features." Answer at 10. For example, the Examiner relies on the following passages of Lumelsky, none of which demonstrate the alleged equivalence between an "active voice page" and a CES-based file:

> The personal radio station server stores multiple subscriber profiles with topics of individual interest, assembles a content material from various Web sites according to the topics, and transmits the content to a subscriber's terminal on the subscriber's request over the wireless digital network.
>
> Lumelsky at Abstract.
>
> . . .
>
> Associated with each user is a profile, which defines the user's topic categories of interest. This profile is typically defined in terms of a list of topic categories, e.g., international news, sports news, business news, etc.
>
> Lumelsky at col. 19, lines 53-58.
>
> . . .
>
> The user may, as desired, change the definition of his/her profile. Preferably, the user terminal audibly prompts the user to select topics from among menu selections.
>
> Lumelsky at col. 19, lines 60-63.

The first passage relied upon by the Examiner relates only to a personal radio station server that provides content to a user based on the user's topics of interest. However, this passage does not disclose, teach, or suggest that the content being transmitted to the user is in the form of a "unique active voice page." Similarly, the second and third passages relied upon by the Examiner merely discuss providing content to the user according to a user profile, which the user can change via menu selections presented at a terminal. They are silent with regard to any teaching of a "unique active voice page."

Thus, the new points raised by the Examiner in the Answer fail to overcome the previously discussed deficiencies of Lumelsky, as none of the relied upon passages in Lumelsky disclose, teach, or suggest *at least* the feature of "generating a unique active voice page for each subscriber of the at least one voice service," as recited in independent

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claims 27-28. For at least this reason, all of the rejections based on the combination of Lumelsky and Ladd are improper and should be reversed.

Moreover, the new points raised by the Examiner in the answer also fail to demonstrate how the cited portions of Lumelsky disclose, teach, or suggest the claimed feature that "a unique active voice page," or a CES-based file, includes "personalized content created by applying subscriber-specific personalization information for a subscriber to the generated content," as recited in independent claims 27-28.

For example, in the Appeal Brief, Appellants clarified that Lumelsky does *not* create personalized content by generating content for a subscriber, and *subsequently* "applying subscriber-specific personalization information for a subscriber to the generated content." In other words, the claimed invention recites more than one level of content personalization. First, content is generated for a voice service to which a subscriber has subscribed. Thereafter, the content generated for the voice service is personalized for the subscriber by applying subscriber-specific personalization information thereto. As such, not only can the subscriber personalize the content provided by the voice services (e.g., stock quotes), the subscriber can further personalize the content according to information unique or specific to the subscriber (e.g., purchasing or selling stock based on the stock quotes).

By contrast, Lumelsky discloses, at best, generating content for a subscriber's voice services according to the subscriber's preferred topics. However, the nature of the generated content necessarily precludes the previously generated content from being personalized by "applying subscriber-specific personalization information for the subscriber" thereto. This is because Lumelsky specifically indicates that the personal radio station server provides content in the form of CES-based files, which include a composite encoded speech (CES) sequence. The CES sequence, however, is an encoding of the speech of "a narrator . . . who is reading a textual representation of the particular data, e.g., information or news, that the end user has subscribed to." Lumelsky at col. 10, lines 20-53.

Thus, when content (i.e., CES-based files) corresponding to the subscriber's preferred topics has been assembled, the content is in a form that cannot be further personalized. For example, in the system of Lumelsky, further personalization would

require the narrator to return to a CES editor to read a personalized form of the content. Clearly, Lumelsky does not disclose, teach, or suggest such a system. As a result, Lumelsky does not disclose, teach, or suggest "applying subscriber-specific personalization information for the subscriber" to the CES-based files.

Further, the portions of Lumelsky that the Examiner relies upon to dispute Appellants' arguments fail to support the Examiner's assertion that "*Lumelsky* clearly discloses these features." Answer at 10. For example, the Examiner relies on the above-referenced passages of Lumelsky, which do not disclose, teach, or suggest that encoded speech content associated with a CES-based file includes "personalized content created by applying subscriber-specific personalization information for a subscriber to the generated content."

For instance, the first passage relied upon by the Examiner relates only to a personal radio station server that provides content to a user based on the user's topics of interest. However, this passage does not disclose, teach, or suggest that the content being transmitted to the user is further personalized by "applying subscriber-specific personalization information." Similarly, the second and third passages relied upon by the Examiner merely discuss providing content to the user according to a user profile, which the user can change via menu selections presented at a terminal. They are silent with regard to any teaching of further personalizing the CES-based content by "applying subscriber-specific personalization information."

Thus, the new points raised by the Examiner in the Answer fail to overcome the previously discussed deficiencies of Lumelsky, as none of the relied upon passages in Lumelsky disclose, teach, or suggest *at least* the feature of "a unique active voice page" that includes "personalized content created by applying subscriber-specific personalization information for a subscriber to the generated content," as recited in independent claims 27-28. For at least this reason, all of the rejections based on the combination of Lumelsky and Ladd are improper and should be reversed.

B.   *The Combination of Lumelsky and Ladd Fails to Disclose, Teach, or Suggest "wherein a unique active voice page comprises . . . one or*

> ***more input elements embedded in the unique active voice page used
> to request input from the subscriber."***

In the Answer, the Examiner alleges that Lumelsky and Ladd each disclose the following feature, as recited in both independent claims 27 and 28:

> . . . wherein a unique active voice page comprises . . . one or more
> input elements embedded in the unique active voice page used to
> request input from the subscriber . . .

In response to Appellants' arguments that the alleged combination of Lumelsky and Ladd fails to disclose, teach, or suggest the foregoing feature, the Examiner alleges that Appellants propose a standard by which "an obviousness rejection could never move from Point A to Point B." Answer at 11-12. Further, the Examiner makes the peculiar claim that "Appellants only look at the presence of CES-based files in *Lumelsky* to conclude that a combination with *Ladd* . . . is impossible." Answer at 12. Appellants disagree with each of these contentions.

Appellants initially note that no standard has been proposed by which references cannot be combined; nor have Appellants proposed that a combination of Lumelsky and Ladd is impossible. The arguments presented in the Appeal Brief did not "attack the teachings of the references individually without addressing what the combination suggests to one having ordinary skill in the art as a whole." Answer at 12 (citing *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871 (C.C.P.A. 1981)). On the contrary, Appellants specifically addressed why the combined teachings of Lumelsky and Ladd, as a whole, do not disclose, teach, or suggest every feature of the claimed invention. The case law relied on by Examiner does not alter the requirement that a *prima facie* case of obviousness always requires every claim feature to be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 985, 180 U.S.P.Q. 580 (C.C.P.A. 1974). To that end, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

Moreover, the new points raised by the Examiner in the Answer fail to overcome the deficiencies of Lumelsky and Ladd previously addressed in Appellants' Appeal Brief.

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For example, in the Answer, the Examiner presents the new argument that "it is now noted that *Lumelsky* may be understood to inherently disclose embedded input elements." Answer at 12. The Examiner then recites various passages from Lumelsky, which relate to the manner by which a user can define topics for inclusion within the user's profile. Notably, the Examiner appears to acknowledge a failure to understand the claim features at issue, which recite that "a unique active voice page . . . comprises one or more input elements embedded in the unique active voice page used to request input from the subscriber." In particular, the Examiner indicates that "[i]t is not completely clear whether Appellants' 'unique active voice page' must be interpreted as a virtual audio interface or a real visual interface." Answer at 12. However, independent claims 27-28 clearly indicate that the input elements are embedded within an "active voice page used to request input from the subscriber" during "an interactive voice broadcast." As such, the claims clearly recite that the input elements are used to request input during at least voice-based interactions.

Nonetheless, the Examiner also alleges that "*Lumelsky* discloses an audio interface having menu selections from which a user may select topics for his/her profile in response to audible prompts. One skilled in the art would know that the audible prompts are equivalent to embedded input elements." Answer at 12. Appellants disagree with this unsupported assertion for at least the reason that cursory discussions of audible prompts do not inherently disclose, teach, or suggest "one or more input elements embedded in [a] unique active voice page." For example, as suggested by the Examiner, an audible prompt may contain only verbalized output that prompts a user to make a selection "by means of clicking on links with a computer mouse." Answer at 12-13. In this example, the input elements would be embedded, at best, within a visual interface, which does not inherently disclose, teach, or suggest a "unique active voice page." Thus, for at least this reason, the Examiner's conclusion that an audible prompt inherently (i.e., necessarily) includes "one or more input elements embedded in [a] unique active voice page" is erroneous.

Further still, the relied upon passages of Lumelsky only relate to audible prompts provided at a user terminal. The Examiner has failed to demonstrate how these passages

inherently disclose, teach, or suggest input elements that have been embedded in a "unique active voice page." Rather, the audible prompts relied upon could take any number of forms, including conventional audio files (e.g., *.wav or *.mp3 files) that do not necessarily disclose, teach, or suggest their inclusion within a "unique active voice page." Further, the audible prompts do not necessarily include any mechanism for receiving input from a user, in that the prompts could simply be one-way communications to the user.

In this sense, the plethora of forms that the audible prompts in Lumelsky can possibly take seriously undermines the Examiner's argument of inherency. That is, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." *In re Rijckaert*, 9 F.3d 1531, 1534, 28 U.S.P.Q.2d 1955, 1957 (Fed. Cir. 1993). Rather, the allegedly inherent matter must *"necessarily* [be] present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999).

Thus, it appears that the Examiner has interpreted the feature of "input elements embedded in the unique active voice page" without regard to the context expressly provided in the claims. Instead, the Examiner appears to have interpreted "embedded input elements" in a vacuum in an apparent effort to expand what Lumelsky allegedly inherently discloses, teaches, or suggests. As such, for at least these reasons, the Examiner has failed to establish how *"Lumelsky* may be understood to inherently disclose embedded input elements," as alleged.

Additionally, in the Answer, the Examiner recites that "in what was perhaps an excess of caution before going forth with the current appeal, *Ladd* . . . was cited for the feature of embedded input elements used to request input from the subscriber and to enable the subscriber to respond to the personalized content." Answer at 13. Although Appellants note that the Examiner's excessive caution is not an issue for appeal, this revelation seems to undercut the Examiner's argument that Lumelsky discloses the features

for which Ladd is relied upon (e.g., if Lumelsky discloses what the Examiner alleges, the rejection should have alleged a case of anticipation based on Lumelsky; otherwise, the Examiner's characterizations of Lumelsky are incorrect). Even so, the portions of Ladd relied upon by the Examiner, which relate to VoxML input elements, nonetheless fail to cure the aforementioned deficiencies of Lumelsky.

For example, the Examiner cannot discard the fact that CES-based files, as disclosed in Lumelsky, are relied upon as allegedly teaching "a unique active voice page . . . [that] comprises personalized content." Thus, because claims 27-28 recite that the "unique active voice page . . . further comprises one or more input elements embedded in the unique active voice page," a combination based on Lumelsky and Ladd would have to establish that VoxML input elements can be embedded within CES-based files (and that CES-based files disclose, teach, or suggest unique active voice pages). The Examiner has failed to establish either of these propositions.

As the Examiner notes above, the relied upon teachings of the references must be considered in combination, and as a whole. Thus, the *combination* of Lumelsky and Ladd fails because the CES-based files include "phonetically encoded data," and Lumelsky does not disclose, teach, or suggest how CES-based files can be modified to have VoxML input elements embedded within the encoded speech. The combination further fails because Ladd does not disclose, teach, or suggest that VoxML input elements can be incorporated into a composite encoded speech (CES) sequence.

Thus, the new points raised by the Examiner in the Answer fail to overcome the previously-discussed deficiencies of Lumelsky and Ladd. Particularly, none of the relied upon passages in Lumelsky or Ladd, either alone or in combination, disclose, teach, or suggest "a unique active voice page . . . [that] comprises one or more input elements embedded in the unique active voice page used to request input from the subscriber," as recited in independent claims 27-28. For at least this reason, all of the rejections based on the combination of Lumelsky and Ladd are improper and should be reversed.

Moreover, Appellants write further to repudiate the Examiner's characterization of the problems addressed by Appellants' invention. In particular, the Examiner alleges that

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Ladd "is certainly related to the problem that Appellants are trying to solve: providing a voice interface for a user to make selections from a menu." Answer at 13. The Examiner grossly trivializes and mischaracterizes the nature of Appellants' invention, which goes far beyond a mere voice interface that enables a user to make menu selections. The invention can dynamically generate content for a voice services subscriber, personalize the content for the subscriber, initiate communications to the subscriber, and interact with the subscriber during the provisioning of voice services, among other things. Appellants further note that these significant mischaracterizations are consistent with the context of the rejection, in which relied upon teachings from the references are tangential, at best, to the claim features at issue.

C.   ***The Combination of Lumelsky and Ladd Fails to Disclose, Teach, or Suggest "initiating an outbound communication to a subscriber to establish an interactive voice broadcast with the subscriber."***

In the Answer, the Examiner alleges that Lumelsky discloses the following feature, as recited in both independent claims 27 and 28:

> . . . initiating an outbound communication to a subscriber to establish an interactive voice broadcast with the subscriber . . .

In the Answer, the Examiner alleges that "there are a variety of good reasons to rebut [Appellants'] argument" that "*Lumelsky* discloses that a subscriber initiates the communication by issuing a log-on command or by placing a call from their user terminal." Answer at 14.

For example, the Examiner alleges that "*Lumelsky* discloses 'push technology,'" whereby "[t]hose skilled in the art know that push technology involves a passive reception of communications." Answer at 14. As such, the Examiner characterizes Lumelsky as allegedly utilizing "a communication protocol where a request for a given transaction originates with a publisher, or central server, as opposed to a request for transmission of information originating from a receiver, or a client." Answer at 14. Thus, the Examiner alleges that "the fact that *Lumelsky* discloses push technology strongly suggests . . . an outbound communication being initiated at the publisher, or server, rather than by a client,

or subscriber." Answer at 14.   Appellants disagree with the Examiner's characterizations of Lumelsky and the nature of push technology.

Initially, Appellants note that the Examiner relies upon a current "Wikipedia" reference of suspect reliability. The Examiner goes so far as to acknowledge the weakness of the reference relied upon, discussing it "for what it's worth." Answer 14. Apart from the "unproven" nature of Wikipedia references, the Examiner's steadfast reliance on push technology does not fully consider the feature of the claimed invention reciting that an outbound communication is initiated "to establish an interactive voice broadcast with the subscriber." In other words, independent claims 27-28 recite, among other things, that the outbound communication establishes the interactive voice broadcast during which personalized content is presented to a subscriber. However, because Lumelsky only discusses establishing a communications session in response to users placing calls from their terminals, the usage of push technology does not fairly disclose, teach, or suggest "initiating an outbound communication to a subscriber <u>to establish an interactive voice broadcast with the subscriber,</u>" as recited in independent claims 27-28, for example.

For example, Lumelsky indicates only "that 'push technology' permits a user to create a profile and to receive information on topics identified in his profile." Lumelsky at col. 10, line 63 – col. 11, line 31. However, Lumelsky clearly indicates that the information is only pushed down to a client after "users request CES-based documents by placing a call from their user terminal." Lumelsky at col. 10, line 63 – col. 11, line 31. Thus, while Lumelsky provide information to a user without receiving a specific request for the information from the user, the information will only be provided after the user initiates communications with the server. The Examiner's electronic mail example fails to overcome these deficiencies of push technology with respect to the claim features at issue. For instance, a user would still have to open an e-mail client or otherwise establish contact with an e-mail sever before the user's e-mail is pushed down. Therefore, Lumelsky's use of push technology may suggest, at best, that a personal radio station server can automatically push content down to a user <u>subsequent</u> to when a user establishes a connection with the server by placing a call from the user's terminal.

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As would be known to one skilled in the art, data cannot be transmitted between two entities in a network without a communications session having been established between them. Accordingly, the Examiner's further argument that "simply because *Lumelsky* discloses calling up the radio service and logging on does not preclude the fact that the communication is initiated by the network server" does not overcome the previously discussed deficiency of Lumelsky with respect to the claim language at issue. Specifically, that Lumelsky "discloses calling up the radio service and logging on" does, in fact, preclude Lumelsky from disclosing, teaching, or suggesting, "initiating an outbound communication to a subscriber <u>to establish an interactive voice broadcast with the subscriber."</u>

Furthermore, the Examiner's characterization of Lumelsky based on what it "does not preclude" is blatantly improper as a means of evaluating what a reference teaches. The Examiner's arguments amount, in essence, to a de facto admission that specific features recited in the claim are being ignored. For example, without regard to the claim language, the Examiner alleges that "the fact that a user must call up and log on to establish service does not impact one way or the other who initiates a communication." Answer at 15. The Examiner goes on to mischaracterize the claimed invention, alleging that "[t]he content is what is being communicated, not the establishment of any session." Answer at 15. However, independent claims 27-28 specifically recite that the communication is initiated "to establish an interactive voice broadcast." The Examiner has yet to demonstrate how Lumelsky allegedly discloses, teaches, or suggests at least this feature of the claimed invention. In fact, by acknowledging Lumelsky operates in a manner that "a user <u>must</u> call up and log on <u>to establish service,"</u> the Examiner acknowledges, at least implicitly, the reference's deficiency in this regard.

Furthermore, the Examiner proposes that "there are additional reasons relating to the doctrines of claim differentiation and broadest reasonable interpretation, . . . which suggest that a session may still be established by a call from a subscriber, only following which is message content delivered to the user." Answer at 15. Appellants note that the Examiner's reliance on claim differentiation appears to be misplaced, as the doctrine holds

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only that different words used in various claims indicate that the claims differ in focus and scope. *See Andersen Corp. v. Fiber Composites,* 474 F.3d 1361, 1369, 81 U.S.P.Q.2d 1545 (Fed. Cir. 2007). Thus, the Examiner incorrectly relies on the doctrine to allege that claims 36 and 45, which recite that "initiating an outbound communication . . . comprises initiating an outbound telephone call," alter the nature of the independent claims. At best, claim differentiation in this context could be relied on for the supposition that the "outbound communication" recited in the independent claims can include various types of communications (e.g., a data transmission over a network connection, an outbound telephone call, etc.), while the "outbound communication" recited in the dependent claims identifies a specific one of the types of communications (i.e., the outbound telephone call).

Accordingly, the Examiner cannot use specious legal arguments to simply overlook explicitly recited claim features in the independent claims, whereby an outbound communication is initiated "<u>to the subscriber,</u>" and further, "<u>to establish an interactive voice broadcast.</u>" The Examiner is reminded that the principle of interpreting claims based on their broadest *reasonable* interpretation dictates interpreting claim language reasonably, consistent with the specification. By contrast, apparently because Lumelsky would not otherwise apply against the claim language, the Examiner applies the principle in reverse, using the specification to rewrite the claim language in a way that discards the aforementioned features expressly recited therein. Accordingly, when the Examiner asks, "if the broadcast is interactive, then how, one may wonder, can the user play no role in its initiation," Appellants respond by noting that the interaction occurs during the broadcast, not in its initiation. For example, the Examiner should certainly be aware of the subsequent feature of independent claims 27-28, which recites, "dynamically <u>interacting with the subscriber</u> . . . <u>during the subscriber's interactive voice broadcast.</u>" Thus, the claim language itself unambiguously answers the Examiner's question as to how the user can interact with a system without playing a role in initiating the broadcast.

Thus, the new points raised by the Examiner in the Answer fail to overcome the previously discussed deficiencies of Lumelsky, as none of the relied upon passages in Lumelsky disclose, teach, or suggest "initiating an outbound communication to a subscriber

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to establish an interactive voice broadcast with the subscriber," as recited in independent claims 27-28, for example. For at least this reason, all of the rejections based on the combination of Lumelsky and Ladd are improper and should be reversed.

IV.   RESPONSE TO EXAMINER'S ARGUMENTS – DEPENDENT CLAIMS.

In the Answer, the Examiner makes various mischaracterizations and inaccurate statements regarding Appellants' invention. Specifically, the Examiner summarily alleges that Appellants' "invention is really about incorporating what is known in generating personalized web pages on Yahoo™ and Google™, and applying it to voice services." Answer at 16. The Examiner goes on to allege that "one of ordinary skill in the art would know to set up personalized web pages on Yahoo™ and Google™, providing user selected content . . . that are generated for the user every time that web site is accessed from a user's favorite list of web sites." Answer at 16.

The Examiner's remarks are illustrative for at least the reason that they establish the Examiner's failure to fully appreciate what Appellants' "invention is really about." Providing dynamic, real-time, personalized content in an on-the-fly manner goes well beyond "incorporating what is known in generating personalized web pages on Yahoo™ and Google™, and applying it to voice services." In any event, the Examiner does not rely on references that relate to Yahoo™ or Google™; as such, the Examiner's reasoning in this respect has absolutely no support in the record. For at least this reason, all of the rejections are improper and should be reversed.

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CONCLUSION

Appellants now appeal to this Honorable Board to promptly reverse all rejections of

claims 27-36 and 38-45, and issue a Decision in favor of Appellants. All of the claims are in

condition for allowance.

Date: **August 27, 2007**   Respectfully submitted,

                                          By: _____
                                                S. Jafar Ali
                                                Registration No. 58,780

Customer No. 00909   **PILLSBURY WINTHROP SHAW PITTMAN LLP**
                                           P.O. Box 10500
                                           McLean, Virginia 22102
                                           Main: 703-770-7900
                                           Fax: 703-770-7901

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